

Law Office of Gregory A. Ross, P.C.
4245 Kemp Blvd., Ste. 308
Wichita Falls, Texas 76308
(940) 692-7800
(940) 692-7813 FAX
State Bar No. 17302500

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

IN RE: FRANK MASTEN
HIGGINGBOTHAM AND DEBRA JAYNE
HIGGINBOTHAM, DEBTORS

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* CHAPTER 13
* CASE NO: 10-70316-HDH-13
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* JUDGE: HALE
* HEARING DATE: 2/16/2011
* HEARING TIME: 11:00 A.M.

A/K/A 1:
D/B/A 1:
SSN # 1:

A/K/A 2:
D/B/A 2:
SSN# 2:

**NOTICE OF HEARING, PRE-HEARING CONFERENCE
AND ATTACHED MODIFICATION OF PLAN AFTER CONFIRMATION**

NOTICE OF HEARING

On the FEBRUARY 16, 2011, which is at least twenty-five (25) days from the date of service hereof, at 11:00 o'clock A.M. a **HEARING** on the above and foregoing "Modification of Plan After Confirmation" will be held before the Bankruptcy Judge, in room 208, U.S. Courthouse, 10TH AND LAMAR Streets, Wichita Falls, Texas. Creditors are not required to attend unless they have objections to the Modification.

NOTICE OF PRE-HEARING CONFERENCE

A **PRE-HEARING CONFERENCE** will be held by the Trustee at 8:30o'clock A.M. prior to the above hearing time at the following location U.S. Courthouse, 10th and Lamar Streets, Wichita Falls, Texas. Hearings on Motions to Modify Plans with objections not resolved at the **PRE-HEARING CONFERENCE** will be heard by the Court at the scheduled Hearing time.

NOTICE is hereby given that pursuant to 11 U.S.C. 1329 the attached "Modification of Plan" dated January 10, 2011, **will be** by the Court as the Debtor's Modified Chapter 13 Plan unless a party in interest files a written "Objection to the Modification" within twenty (20) days of service hereof, and the Debtor has made any subsequent payments required under the Modified Plan. An **"Objection to Modification"** shall be made in writing to the following: United States Bankruptcy Court, Clerks's Office, with copies sent to Walter O'Cheskey, Chapter 13 Trustee, 6308 Iola Avenue, Lubbock, Texas, 79424 and Debtor(s) Attorney at the above address.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

IN RE: FRANK MASTEN HIGGINBOTHAM
AND DEBRA JAYNE HIGGINBOTHAM

DEBTOR(S)

* CHAPTER 13
* CASE NO: 10-70316-HDH-13
*
* HEARING DATE: 2/16/2011
* HEARING TIME: 11:00 A.M.

MODIFICATION OF MODIFIED CHAPTER 13 PLAN AFTER CONFIRMATION

DATE: JANUARY 10, 2011

Pursuant to 11 U.S.C. 1329, the Debtor(s) (per the undersigned attorney) or the Standing Chapter 13 Trustee, requests the following Modification of Debtor(s) Confirmed Plan herein:

HISTORY OF THE CASE

1. Date Case Filed: July 19, 2010
2. Date of Section 341 Meeting: August 20, 2010
3. First Payment Date: August 18, 2010
4. Date of Confirmation: September 27, 2010
5. Total Plan Term Prior to this Modification: 60 months
6. Number of Months from First Payment Date through month prior to estimated month of Modification Approval: 6 months
7. Remaining Plan Term (subtract item 6 from the lessor of item 5 or 60 months): 54 months
8. Amount of Arrears through the month prior to the date the Modification is filed: \$0.00
9. Date Plan Payments are to Resume: February, 2011 (This must be the same month that the Modification is set for approval by the Court)
10. Total Payments **Paid** to the Trustee through the month prior to the date the Modification is filed with the clerk: \$8,180.00
11. Total Payments **Due** to the Trustee through the month prior to the date the Modification is filed with the clerk: \$8,180.00
12. Total Payments **Due** to the Trustee from the month the Modification is filed to the month the Modification is set for approval: \$1,636.00
13. List Dates of any Prior Orders Modifying, Interlocutory Orders, or Special Supervision Orders: None.

II.

MODIFICATION REQUESTED

(check 1 or more of the following 4 choices)

- ☐ Plan payments remain at \$_____ per month.
- ☒ **DECREASE** monthly payment from \$1,636.00 per month to \$767.00 per month (must coincide with resume date shown in item 9 above)
- ☐ Extend months from _____ months to _____ months (Not to Exceed 60 Calendar Months from Month of First Payment Date)
- ☐ Add balloon payment of \$_____ in _____ month (indicate how the balloon payment will be made)_____

All modifications which include a balloon payment will require testimony.

Any arrears indicated in item 8 above shall be cured by the following method:_____

III.

RESUMPTION OF PAYMENTS TO THE TRUSTEE

(all information below must be complete)

Payments can only change as of the month the modification is approved. Payments to the Trustee in the amount of \$767.00 will resume on or before February, 2011 for 54 months (item 7 above) remaining in the Modified Plan as of the date the modification is approved.

Base amount remains the same in the amount of \$_____.

Base amount will change from \$98,160.00 to \$51,234.00

If the base amount has changed complete the following:

Total Paid in as of the month prior to Modification Approval:	\$9,816.00
(+) Plus Total Payments to be made through the Remainder of the plan (making up any arrears in item 8 above):	\$41,418.00
(=) New Base Amount	\$51,234.00

IV.
TREATMENT OF UNSECURED CREDITORS

Unsecured creditors are not guaranteed a dividend when a plan is confirmed. See general order 2007-2. Allowed general unsecured claims may receive a pro-rata share of the unsecured creditors' pool, but not less than the section 1325(a)(4) amount of non-exempt property less allowed administrative and priority claims, after the TRCC becomes final. A proof of claim must be timely filed to be allowed.

_____ The unsecured creditor pool remains \$_____.

 X The unsecured creditor pool changes from \$98,160.00 to \$42,888.00.

V.
SECURED, PRIORITY OR SPECIAL CLASS TREATMENT

ADD/DELETE/SURRENDER/CHANGE the following Secured, Priority or Special Class Unsecured Creditor(s):

CODE; A = ADD; D = DELETE; S = SURRENDER; CF = CHANGE FROM; CT =CHANGE TO

Code	Name	Class	Amount	Collateral	Value	Int.	Monthly Payment Surrender Direct
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____

or

 X Check here if no changes are to be made to creditors

Note: Changes to any creditors above shall not be effective until the Modification is Approved.

VI.
ATTORNEY'S FEES

Debtor's attorney shall be allowed an additional fee for this Modification in the total amount of \$400.00, of which \$400.00 will be paid through the Plan by the Trustee.

or

_____ Check here if no additional attorney fee has been added for this Modification of Plan after Confirmation.

VII.
REASON FOR MODIFICATION

This Modification is requested for the following reason(s):

Debtors are in need of purchasing a new vehicle as the 1998 Ford Windstar the wife currently drives is in need of major repairs. Debtors also have less disposable income then is shown in their B22 and must reduce the Plan payment to make it feasible.

VIII.
BUDGET INFORMATION

At the time of filing this modification the debtor shall provide a filed marked copy of the current budget (schedules I & J) and the three most recent pay stubs to the Trustee.

Dated: January 10, 2011.

Respectfully submitted,

/s/ Gregory A. Ross
DEBTOR ATTORNEY

CERTIFICATE OF SERVICE

I certify that a true copy of the above and foregoing Modification of Plan After Confirmation, Notice of Hearing and Pre-Hearing Conference has been served by me on this day of January 10, 2011, on all parties on the attached matrix, by United States First Class Mail, proper postage affixed.

/s/ Gregory A. Ross
DEBTOR ATTORNEY